

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

IN RE:)
)
TORIANO J. AVERY,)
)
Debtor,)
)
TORIANO J. AVERY,)
)
Appellant,)
)
v.) CIVIL ACTION NO.
) 3:09cv138-MHT
WELLS FARGO BANK, NATIONAL) (WO)
ASSOCIATION, d/b/a Wells)
Fargo Home Mortgage,)
Inc.,)
)
Appellees.)

JUDGMENT

In accordance with the memorandum opinion entered
this date, it is the ORDER, JUDGMENT, and DECREE of the
court that:

(1) The bankruptcy court's entry of summary judgment
is affirmed with respect to appellant Toriano J. Avery's
claims of false default and wrongful foreclosure.

(2) The bankruptcy court's entry of summary judgment is reversed with respect to appellant Avery's claims of improper fee assessment and violations of the Fair Debt Collection Practices Act.

It is further ORDERED that this case is remanded for further proceedings consistent with the opinion entered this date.

It is further ORDERED that costs are taxed against appellee Wells Fargo Bank, National Association, for which execution may issue.

The clerk of the court is DIRECTED to enter this document on the civil docket as final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DONE, this the 22nd day of July, 2010.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE